

Introduction

- “the initiative will modify the Directive or a proposal for a new Regulation repealing the Directive will be prepared, to notably encompass end-of-life and sustainability requirements. (... Q4 2020)” 2020 CWP
- Information from
 - Studies and consultation underpinning the assessment and evaluation of the Directive,
 - Studies and consultation carried out in the context of the ‘eco-design’ process,
 - Extensive consultation processes during and following up to the Strategic Action Plan on Batteries,
 - Two specific studies,
 - *Feasibility of measures addressing shortcomings in the current EU batteries framework system,*
 - *Study addressing particular topics on batteries (legal statuses, restrictions, etc).*

Proposed approaches and measures

- Taken from
 - EU institutions
 - Stakeholders' proposals
 - Technical and scientific publications
- Disclaimer

This document is part of a study which is being prepared for the European Commission. However, the information and views set out in this report are those of the authors and do not necessarily reflect the official opinion of the Commission. The Commission does not guarantee the accuracy of the data included in this initial presentation of results.

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Batteries Directive 2006/66/EC

Initial results of the study in support of the assessment of the Batteries Directive

Measure 13: Online sales of batteries



EPR/PRO

Measure 13

Online sales of batteries

Measure 13 – Online sales of batteries (IIIa)

Baseline

- Online battery sales from unregistered suppliers continue as ‘free riders’, and this is likely to increase. This has the following potential effects:
 - Distort the quantities reported as Placed on Market
 - An overestimate of the performance against the recycling targets for portable batteries.
 - **Underfinancing of waste collection and treatment operation** due to free-rider suppliers/ producers not registering and paying their EPR fees / obligations under the Directive.
 - Competitive disadvantage on those suppliers who are registered and contribute to PROs
 - Distortion of market signals on the need for future investments in collection and treatment operations
- Due to a lack of data the impact and relevance cannot be quantified (in WEE it is 5-10%) but it is expected to increase in the future.

Measure 13 – Online sales of batteries (IIIb)

Alternative options

Option 1: Monitoring guidance

- Article 8a of the WFD obliges MSs to enforce on-line sales EPR and requires sound reporting and monitoring of goods placed on the market (including via online sales).
- The Regulation could provide more specific provisions how to operationalise this obligation.
- The provisions could require sample testing / inspection of packages arriving from online retailers.
- National authorities compare the companies registered in their registration database with companies offering batteries online (including those incorporated into appliances), this allows them to identify the companies who are not registered (free riders).
- If the guidance is created, identified “free-riders” could be prohibited from operating on the market by Member States, and or obliged to contribute (as per option 2).
- Market surveillance should be via collaboration between MS competent authorities (e.g. sampling of deliveries from outside Europe, and from other MSs)

Measure 13 – Online sales of batteries (IIId)

Option 2: **Duty of examination for online platforms (comply with the rules on intermediary liability in the E-Commerce Directive)**

- **Legal provisions obliging online platforms (and/or fulfilment centres) to verify that the producers are EPR registered in EU countries.**
- **Registration could be at EC level or by individual MS.**
- Producers obliged to openly display their registration on online platforms.
- Limit access if no appropriate EPR documentation for the products they sell (when proportionate) in that market; or
- **Platforms could take on EPR obligations of their sellers**, where the platform:
 - is big enough (most multi-seller platforms would be); and
 - facilitates import (fulfil delivery) and the seller is not EPR registered;
 - the seller falls below an EPR de minimis in the Member State.
 - provide seller quantity data in EPR product categories to PROs and regulators to allow auditing (with due regard to data protection rules)
- **Non-compliance with obligations of the online marketplace operator would constitute an administrative offense.**
- **Member State authorities could then verify whether such producers are fulfilling their EPR obligations.**

Measure 13 – Online sales of batteries (IVa)

Economic / environmental impacts – explanation of differences

- ✓ **Extra costs**
 - ✓ For option 1, collecting the data on internet sales will impose some costs on the Member States and the EC.
 - ✓ For option 2, there would be a challenging ongoing data collection, monitoring and enforcement cost for the Member States and the EC.
 - ✓ For option 2, there would be a registration, information provision (to consumers) and PRO contribution cost to the suppliers and the internet platforms. (Costs already paid by compliant suppliers)
 - ✓ For option 2, administrative costs for producers selling on online platforms and for online platforms to police producer due diligence. Increased costs for free-riders that either have to register or lose a place in the battery sales market. (Costs already paid by compliant suppliers).
 - ✓ For option 2, Member State surveillance expected to remain relatively consistent, but some new / additional monitoring systems expected. However administrative burden for implementation would be greater for EC/Member States.

Measure 13 – Online sales of batteries (IVb)

Economic / environmental impacts – explanation of differences

- ✓ **Extra benefits / savings**
 - ✓ Option 1 would identify those suppliers who are not contributing to PROs, and these contributions could be requested. This would increase the PROs income and could lead to more collection and recovery/recycling of batteries.
 - ✓ Option 2 would also identify the suppliers not contributing to PROs but would include a clear ongoing mechanism for collecting this contribution and for improving the information provided to consumers. These should both improve the collection and recovery/recycling of batteries.
 - ✓ Option 2 would remove an unfair advantage gained by producers from platforms. It would increase PRO funding in Member States, as a result of reduced free-riding.

Measure 13 – Online sales of batteries (V)

Comparison of options

Impact	Baseline	Option 1	Option 2
Fair competition between recyclers	No /	No /	Yes – remove free-riding ++
Harmonised data reporting	No /	Yes (better data) +	Yes +
Environmental benefits	No /	No /	Possibly, if PRO budget increases and recovery improves as a result of extra budget (scale may be limited) (+)
Environmental burdens	No /	No /	No /
Additional savings (Euro)	No /	Possible savings for PROs (+)	PRO income increases ++
Additional costs (Euro)	Possible costs for PROs (--)	Low -	Increase in costs for internet sales platforms and free-rider producers (but costs already paid by compliant suppliers) -
Administrative burden (yearly)	No /	Low -	Low -
One-time administrative burden	No /	Low -	Medium/high --

Measure 13 – Online sales of batteries (VI)

Initial conclusions

- ✓ The scale of the problem(s) caused by the ‘free riders’ of online sales of batteries not contributing to PRO costs cannot be quantified due to a lack of available data
- ✓ General agreement that it is distorting the figures of batteries placed on the market, and causing PROs additional costs.
- ✓ Monitoring, is the logical first step to discover the scale (and to comply with WFD).
- ✓ The internet sales platforms (and suppliers) can be regulated and obliged to contribute.
- ✓ This will impose extra costs on them (though this would be a more level playing field) and on the MSs (and the EC, if a central monitoring approach is adopted) to administer.
- ✓ It would also increase PRO income, which should improve collection.